

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

KARLA K. CREAMER,)	Case No.: 1:14 CV 1789
)	
Plaintiff)	JUDGE SOLOMON OLIVER, JR.
v.)	
)	
COMMISSIONER OF SOCIAL)	
SECURITY ADMINISTRATION,)	
)	
Defendant)	<u>ORDER</u>

The Commissioner of Social Security Administration (the “Commissioner”) denied disability benefits to Plaintiff Karla Creamer (“Plaintiff” or “Creamer”), in the above-captioned case. On August 14, 2014, Plaintiff sought judicial review of the Commissioner’s decision, and this court referred the case to Magistrate Judge James R. Knepp II for preparation of a Report and Recommendation (“R&R”). Both parties submitted briefs on the merits. Plaintiff requested an order reversing the Commissioner’s decision on the basis that the Administrative Law Judge’s (“ALJ”) determination that she was not physically disabled was not supported by substantial evidence. The Commissioner sought final judgment upholding the decision below.

Magistrate Judge Knepp submitted his R&R (ECF No. 18) on July 24, 2015, concluding that the court should reverse the Commissioner’s decision and remand the matter back to the Commissioner for further consideration of the treating physician rule. The Magistrate Judge concluded that the ALJ failed to properly consider two of Plaintiff’s treating physician’s (“Dr. Perkins”) opinions in accordance with the treating physician rule. Specifically, the Magistrate Judge found that the ALJ’s determination that Plaintiff was not physically disabled was in error because the ALJ: (1) failed to properly address Dr. Perkins’ opinions that Plaintiff was “really limited to

sedentary-type duty and even with that, at this point would not be able to sit for more than 1 or 2 hours in an 8-hour day” and therefore was “really disabled at this point”; and (2) failed to offer support from the record for the ALJ’s findings that Plaintiff was not compliant with treatment or that “Plaintiff’s symptoms were well controlled by the spinal cord stimulator and conservative treatment.” (R&R at 9-10.) The Magistrate Judge declined to determine whether the ALJ’s decision that Plaintiff lacked credibility was supported by substantial evidence. (*Id.* at 12.) On August 7, 2015, Defendant filed a Response to Magistrate Judge’s Report and Recommendation (ECF No. 19) indicating that Defendant will not be filing objections to the R&R.

The court finds, after careful *de novo* review of the Magistrate Judge’s R&R and all other relevant documents in the record, that the Magistrate Judge’s conclusions are fully supported by the record and controlling case law. Accordingly, the court adopts as its own the Magistrate Judge’s Report and Recommendation (ECF No. 19). The court hereby reverses the Commissioner’s decision and remands the case to the Commissioner for further consideration of the treating physician rule.

IT IS SO ORDERED.

/s/ SOLOMON OLIVER, JR.

CHIEF JUDGE
UNITED STATES DISTRICT COURT

August 17, 2015